

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Pacific Gas and Electric Company (U 39-E), for approval of the 2006 – 2008 Energy Efficiency Programs and Budget.	Application 05-06-004 (Filed June 1, 2005)
Southern California Gas Company (U 904-G) for approval of Natural Gas Energy Efficiency Programs and Budgets for Years 2006 through 2008.	Application 05-06-011 (Filed June 1, 2005)
Southern California Edison Company (U 338-E), for Approval of its 2006 – 2008 Energy Efficiency Program Plans and associated Public Goods Charge (PGC) and Procurement Funding Requests.	Application 05-06-015 (Filed June 2, 2005)
San Diego Gas & Electric Company (U 902-E) for Approval of Electric and Natural Gas Energy Efficiency Programs and Budgets for Years 2006 through 2008.	Application 05-06-016 (Filed June 2, 2005)

ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO

By ruling dated June 8, 2005, Administrative Law Judge (ALJ) Gottstein consolidated the above-captioned applications of Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SoCalGas), Southern California Edison Company (SCE) and San Diego Gas & Electric Company

(SDG&E) for approval of energy efficiency programs and budgets for years 2006 through 2008.¹ ALJ Gottstein and I held a prehearing conference (PHC) on June 22, 2005 in San Francisco. Today's ruling addresses the categorization of this consolidated proceeding, the scope of the issues to be addressed, the schedule and other procedural matters discussed at the PHC.

1. Categorization of Proceeding

This proceeding was preliminarily categorized as "ratesetting." No objections to this categorization were raised at the PHC. Therefore, I affirm today that this proceeding will be categorized permanently as ratesetting.

2. Scope of Proceeding and Bifurcation

Per Decision (D.) 05-01-055, the Commission will determine whether the funding levels and overall portfolio plans submitted by the utilities are reasonable, and consistent with the energy efficiency policy rules adopted in D.05-04-051. The Commission will evaluate the competitive bid component of the portfolio and assess whether or not the portion being put out to bid and the bid evaluation criteria are reasonable. Following the Commission's decision on these consolidated applications, the utilities will submit their compliance filings as directed by D.05-01-055. By separate decision, the Commission will address the evaluation, measurement and verification (EM&V) plans and proposed funding levels.

At the PHC, Judge Gottstein and I distinguished between the "high level" issues that the Commission will address in its decision on these applications, and the more specific program design and implementation issues that fall "below the

¹ I refer to PG&E, SoCalGas, SCE and SDG&E collectively as "the utilities" throughout this ruling.

radar”—i.e., that are more appropriately addressed through ongoing communication among the utilities, their advisory groups and the interested public. I encourage all active parties to this proceeding to review the PHC transcript concerning this distinction.

As discussed at the PHC, we are bifurcating this proceeding to specifically address EM&V plans and funding levels in a separate, second phase. Per D.05-01-055, the Commission directed the utilities to include in their applications a placeholder funding level for EM&V equal to 8% of program funding. That decision discussed the need to develop specific EM&V plans and funding levels on a separate track, so that the process could be informed by the protocol development activities coordinated by the Energy Division and California Energy Commission staff team (“Joint Staff”). Accordingly, the Commission will first issue a decision on the program-related portfolio plans and funding levels, followed by a decision adopting EM&V plans and funding levels.

Once the Phase 1 issues are addressed in a Commission decision, there will be a “compliance phase” in this proceeding as the utilities (with input from the Peer Review Groups or “PRGs”) issue requests for proposals for competitive bids, review those bids, select winning bidders and finalize their program plans based on the responses. Per D.05-01-055, the Commission will allow the compliance filing to be submitted as an advice letter if the utility and its PRG are in full agreement on the final program plans and bid selections. If not, the utility will submit a compliance filing in this consolidated application docket requesting Commission approval of the final programs.²

² See D.05-01-055, pp. 103-104.

In general, the Commission's consideration of the 2006-2008 program planning applications will focus on the following issues:

PHASE 1 (By Commission Decision):

1. Are the proposed portfolios cost-effective on a prospective basis taking reasonable account of uncertainty with respect to key cost-effectiveness input parameters?³
2. Are the portfolios designed such that it will be feasible for the utilities to meet or exceed the Commission's energy savings goals? If each of the annual goals cannot be met in light of the accounting and ramping up transition issues described in D.04-09-050 and D.05-04-051, will the proposed portfolio plans meet or exceed the 2008 cumulative energy savings goal? ⁴
3. Are the portfolios and associated funding levels appropriately balanced between activities that address short-term and long-term savings?
4. Do the portfolio plans provide sufficient strategies and funding to address opportunities to reduce critical peak loads?
5. Do the plans reasonably allocate funds among market sectors and applications with respect to the savings potential that has been identified in the potential studies?
6. Do the plans adequately describe strategies to minimize lost opportunities, per Rule 5?
7. Do the plans provide for adequate statewide coordination of similar program offerings, e.g., with respect to outreach, upstream

³ As discussed at the PHC, this question will be posed as we evaluate the portfolio plans before the competitive bids are solicited, and then again in the compliance phase when the selections are finalized.

⁴ See my ruling dated May 11, 2005 in R.01-08-028, pp. 7-8.

marketing, codes and standards advocacy and other activities that can take advantage of statewide leverage?

8. Are the utilities' plans for competitive bidding reasonable and consistent with the 20% minimum requirement established by D.05-01-055? Are their proposed bid review criteria reasonable and consistent with the policy rules?

9. What fund shifting and program flexibility rules should be adopted for these program plans?

10. Are the overall funding levels proposed for the portfolio plans reasonable? What is the appropriate ratemaking treatment to recover these costs?

PHASE 2 (By Commission Decision):

1. Are the proposed EM&V plans and funding levels reasonable in light of the adopted EM&V protocols and portfolio plans? What is the appropriate ratemaking treatment to recover these costs?

COMPLIANCE PHASE (By Commission Decision or Resolution):

1. Has the utility solicited competitive bid proposals and evaluated them in a manner consistent with the Commission's approved bid evaluation criteria?

2. Has the utility adequately responded to any criticisms presented by the PRG (and Energy Division consultants) during the bid review process?

3. Is the resulting portfolio still expected to be cost-effective on a prospective basis?

As discussed at the PHC, we will *not* be bifurcating Phase 1 to address competitive bidding issues in a separate, earlier decision, as PG&E and others initially requested. It became clear to all parties during the lunchtime and afternoon discussion that it simply is not feasible to issue a separate decision in

August on these matters. Instead, it is my goal to have a decision for Commission consideration of all Phase 1 issues on the September 22, 2005 agenda, per the schedule set forth in this ruling.

3. Need for Evidentiary Hearings

No one at the PHC proposed that evidentiary hearings be scheduled, and I do not believe that evidentiary hearings will be needed to address the issues in this proceeding. As discussed at the PHC, the record will consist of the utility applications, the PRG assessments required by D.05-01-055, the comments of interested parties, the Case Management Statement, and any supplemental information that Judge Gottstein or my office may request during the course of this proceeding.

4. Case Management Statement

ALJ Gottstein's June 8 ruling also notified all parties that we are requiring the development of a "Case Management Statement" (CMS) in this proceeding. The CMS should reflect the continuation of constructive dialog among utilities, PRG members and interested parties that file opening comments ("CMS Participants"), per the schedule outlined below.

More specifically, the CMS will (1) summarize the areas/issues in dispute in the proceeding based on the utility filings, PRG assessments and opening comments of interested parties; (2) describe issues/areas where resolution has been reached based on further discussions among the utilities, PRG members and interested parties; (3) describe the extent to which cost-effectiveness issues raised by the TecMarket Works report have been addressed during this process, and (4) identify the remaining areas of disagreement that require Commission resolution. The CMS should highlight any changes that the utilities agree to make in response to PRG assessments (or in response to parties' opening

testimony) that will have a material effect on program budgets or program/portfolio cost effectiveness. For each unresolved issue, the CMS should describe the positions of the utilities, PRGs and interested parties that have filed opening comments, as of the date of submission of the CMS.⁵

As discussed at the PHC, CMS Participants should further narrow the options for fund shifting and program flexibility. I am looking for a consistent set of rules across the utilities. If resolution on this issue cannot be reached, CMS Participants should present alternatives for Commission consideration, with a discussion of pros and cons of each approach.

The CMS statement will also be the forum for CMS Participants to address areas of agreement and disagreement with respect to (1) the amount of savings that should be attributed to pre-2006 Codes and Standards advocacy work for the purpose of resource planning and (2) whether some or all of those savings estimates should also be “counted” when considering the cost-effectiveness of the proposed portfolios and achievement of the savings goals.

As part of the CMS document, the utilities are also required to present a proposal (including a schedule) for how they will pull together information from their filings that will assist Energy Division in developing the September report to the Legislature on the Green Building Initiatives.⁶

⁵ Interested parties, including individual PRG members, may elaborate on their positions with regard to issues still in dispute in their reply comments, due after the CMS is filed. See the schedule discussed in this ruling.

⁶ See PHC Reporter’s Transcript, pp. 60-62.

Finally, as discussed at the PHC, PG&E will submit program details to the CMS participants and post that information to a website approximately one week before the CMS statement is due. PG&E's supplement on program detail, reflecting the results of further discussion with CMS participants, will be filed concurrent with the CMS. (See schedule below.)

PG&E has agreed to coordinate the production of the CMS document, and SDG&E/SoCalGas has agreed to coordinate the scheduling, notification and physical logistics associated with the CMS meetings.

5. Schedule

Attachment 1 provides the schedule for all non-EM&V aspects of the applications (Phase 1), and the compliance phase. A revised EM&V roadmap schedule for Phase 2 is posted on the Commission's website at www.cpuc.ca.gov/static/industry/electric/energy+efficiency/rulemaking/eeev%20evaluation.htm. It generally runs concurrent to the Phase 1 and the compliance phase, and provides for public workshops and Joint Staff recommendations on EM&V protocols, evaluation plans and budgets.

5.1 Phase 1

During the lunchtime break and into the afternoon session of the PHC, ALJ Gottstein worked with Joint Staff and interested parties to finalize the schedule for this phase of the proceeding. I note that all individuals and organizations on the service list in our longstanding energy efficiency rulemaking (R.01-08-028), which served as the temporary service list in this proceeding until the PHC, were initially put on notice in late May of the PHC and the due date for opening

comments on the June 1 applications. This information was reiterated in the Notice of PHC after the applications were filed and docketed.⁷

As directed by previous ruling and reiterated at the PHC, opening comments on the June 1 applications, the PRG assessments (including TecMarket Works Draft Report appended to those assessments), as well as PG&E's June 20 supplement, are due by June 30, 2005. (See Attachment 1.)

On July 1, the utilities will jointly file a supplement on estimated savings from Codes and Standards (C&S) advocacy programs. TecMarket Works' Final Report on cost-effectiveness will also be made available by July 1, 2005. It will be served on all parties via ALJ ruling.

On July 8, PG&E will submit additional program details to CMS participants and post that information to a website. Also on July 8, Joint Staff will distribute to CMS participants written recommendations concerning C&S savings estimates to address as part of the development of the CMS. On that same day, opening comments are due on the utilities' July 1 filing on C&S savings.⁸

The CMS is due by July 15, per the attached schedule. The utilities' requests for interim authorizations (pending Commission action on the compliance filings) are also due that day.

⁷ See *Administrative Law Judge's Ruling Regarding Scheduling Issues for June 1, 2005 Energy Efficiency Applications*, May 23, 2005 in R.01-08-028 and *Administrative Law Judge's Ruling and Notice of Prehearing Conference*, June 8, 2005 in this consolidated proceeding.

⁸ Parties limiting their comments to C&S issues (by filing opening comments on July 8, but not on June 30) will be involved in CMS discussions on those issues only.

On July 20, reply comments are due. These comments are to be responsive to (1) June 30th opening comments, (2) updates to TecMarket Works Draft Report as reflected in the July 1 Final Report, (3) July 8 C&S opening comments and (4) the CMS filing, which articulates the current status of the undisputed and disputed issues in this proceeding. They are not to be used as an opportunity to raise new issues concerning the applications, PRG assessments (including TecMarket Works Draft Report) and C&S savings submittals that should have been presented in opening comments.

Also on July 20, interested parties may file comments (concurrent) on the July 15 utility requests for interim authorization. There will be no opportunity for reply comments on this issue.

This schedule will enable ALJ Gottstein and I to prepare a Phase 1 decision for Commission consideration at the September 22, 2005 Commission meeting.

5.2 Compliance Phase

At the PHC, ALJ Gottstein requested that the utilities develop a schedule for the compliance phase, to reflect the Phase 1 schedule described above. Their submittal is reflected in Attachment 1. I believe that this is a reasonable schedule for stakeholders to plan around at this time, and will adopt it for that purpose. In particular, we will plan on SCE, SDG&E and SoCalGas submitting their compliance filings on December 9th. For PG&E, the date of the compliance filing is currently scheduled for February 2. These dates assume that the Phase 1 decision is issued on September 22, 2005.

5.3 Phase 2: EM&V Plans and Funding Levels

By D.05-04-051, the Commission addressed threshold EM&V issues related to the evaluation of program and portfolio performance, provided guidance on the development of EM&V protocols and established a process whereby final

EM&V plans and funding levels would be considered by the Commission for the 2006-2008 program cycle. For this purpose, the Commission adopted an expedited review process for the interim steps leading up to the development of detailed EM&V budgets and plans, which included the review and approval of EM&V protocols.

Joint Staff has been tasked with developing the EM&V roadmap for this phase of the proceeding, in consultation with the assigned ALJ. By ruling dated April 20, 2005 in R.01-08-028, ALJ Gottstein adopted an implementation roadmap for EM&V, after receiving comments from interested parties on an earlier Joint Staff draft. As noted in that ruling, the Commission recognized that the assigned ALJ may need to “provide additional clarification and direction on EM&V and Research and Analysis administrative issues, or make modifications to the roadmap during the program planning cycle.”⁹ Accordingly, ALJ Gottstein and Joint Staff presented a draft update of the roadmap schedule at the PHC, and have subsequently updated that schedule in response to PHC discussion and after considering the scheduling issues related to Phase 1 and the compliance phase. Joint Staff has posted the updated EM&V roadmap schedule at www.cpuc.ca.gov/static/industry/electric/energy+efficiency/rulemaking/eeev%20evaluation.htm. Interested parties should carefully review the dates for workshops, opening and reply comments on Joint Staff submittals, and plan accordingly. As indicated in that roadmap, I intend to prepare a draft decision on Phase 2 issues for the Commission’s consideration at the November 18, 2005 conference.

⁹ See D.05-01-055, Ordering Paragraph 14.

IT IS RULED that:

1. The scope of this proceeding and the individual phases described in this ruling is adopted.
2. The schedule described in this ruling is adopted.
3. Evidentiary hearings are not needed to address the issues in this proceeding.
4. This proceeding is permanently categorized as a ratesetting proceeding.

5. All documents in this proceeding are to be served pursuant to the Electronic Service Protocols attached to ALJ Gottstein's June 8, 2005 ruling, and consistent with Rules 2.3 and 2.3.1.

Dated June 30, 2005, at San Francisco, California.

/s/ SUSAN P. KENNEDY

Susan P. Kennedy
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served the attached Assigned Commissioner's Ruling and Scoping Memo on all parties of record in this proceeding or their attorneys of record by electronic mail to those who provided electronic mail addresses, and by U.S. mail to those who did not provide email addresses.

Dated June 30, 2005, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

N O T I C E

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